

# Temporary Waiver Policy

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### Purpose

Recipients of Temporary Assistance who are referred to the Career Assistance Program (CAP) as employment and training ready (mandatory participants) or who are enrolled in CAP and participating as required, will occasionally be unable to continue to participate in work activities for specified reasons. Under certain circumstances, these recipients may be temporarily waived from participation. With a temporary waiver status, the CAP program gives the recipient “permission” to not participate for a specified length of time.

Temporary waiver status is granted only when the recipient meets very specific conditions. This policy describes these conditions with regard to who may be waived.

While the recipient is in temporary waiver status, he/she is allowed *not* to participate. Do not attempt to engage the individual in activities unless the temporary waiver status is ended. If the recipient is able to participate in *any* activity, he/she is not appropriate to be granted temporary waiver status. For example:

*If a recipient is required to participate in work activities 30 hours per week, but has a doctor's statement that he cannot participate more than 20 hours per week for a set time period, DO NOT enter the individual in a waiver for the remaining 10 hours. Engage the participant in work activities for 20 hours per week, indicate in case notes that the doctor's statement on file indicates the individual is unable to participate more than 20 hours per week for a limited time, and place the doctor's statement in the file. Continue to check the participant's status every 30 days and update the file regarding medical status.*

While the recipient is in temporary waiver status, the months continue to count against his/her 60-month Temporary Assistance lifetime limit. Therefore, it is important that temporary waiver status is granted only after careful consideration, and after all reasonable alternatives for participation have been explored.

**Note:** If a recipient is sanctioned when they become exempt or temporarily waived as stated below, the exemption or waiver status “satisfies” the sanction, because the recipient is no longer mandatory. If the recipient meets an exemption, the alert to notify the Family Support Division (FSD) of the exempt status will cause FSD to also lift the sanction. If the recipient meets a temporary waiver condition, the case manager *must send the alert to lift the sanction*, based on the waiver status. A recipient is no longer mandatory while in temporary waiver status.

### Individuals Exempt from Participation in Work Activities

Some Temporary Assistance recipients are deemed exempt from participation in work activities by FSD. This means that the recipient is *not* employment and training ready for one or more specific conditions, and will not be referred to CAP. These conditions may emerge before referral, or after the recipient is enrolled and participating in CAP.

Case managers must be able to recognize and evaluate these specific conditions in order to make an informed decision regarding where the recipient will receive the most appropriate services. The Division of Workforce Development is responsible for case management of mandatory, non-exempt recipients. If a recipient meets the criteria for exemption, they are referred back to FSD.

**Note:** Do not confuse an exempt category with a temporarily waived status. The exempt categories are described here only for the purpose of distinguishing between the two groups.

### **Individuals Exempt for Participation in Work Activities**

Recipients who meet any of the following criteria for exemption prior to referral by FSD will not be referred to CAP. If the condition occurs after enrollment in CAP, the case manager must obtain verification of the exempt criteria and record it in Toolbox; then, refer the recipient back to FSD using an appropriate alert. (See “Alerts Policy.”).

Recipients who are determined exempt from participation in work activities may volunteer to participate at any time.

Descriptions of the exempt categories and appropriate documentation for each follow. (Categories are designated by Temporary Assistance for Needy Families (TANF) regulations and state policy.)

### **Mentally and Physically Disabled**

Recipients may be exempt from participation if they are determined to be mentally or physically disabled by one or more of the following criteria:

- The recipient makes a first application for old age, survivor's, and disability insurance (OASDI), supplemental security income (SSI), or other employer-sponsored disability insurance; and
- The recipient receives OASDI, SSI or other employer sponsored disability benefits.

Circumstances that do *not* meet the criteria for the exempt category of mentally and physically disabled include:

- Any statement from a medical professional indicating the recipient cannot work;
- An appeal of denial for SSI or one of the other disability insurance benefits;
- A second application for SSI or one of the other disability insurances for the same disabling condition; and
- Any temporary disability.

Acceptable documentation for this category includes an original or photocopy of the application for benefits, written correspondence from the awarding entity verifying receipt of benefits, or any other signed statement from the awarding entity regarding the receipt of or application for benefits.

### **Caretaker-Payees Age 60 or Older**

A caretaker-payee is the recipient head-of-household who is the custodial caretaker of a child under age 18. A caretaker-payee, age 60 years or older, is exempt from participation by reason of age.

Verify age using any official identification (such as a driver's license) or other birth records.

### **Needed in the Home to Care for a Disabled Individual**

A parent or other caretaker who is needed in the home to care for another household member who has a physical or a mental disability may be exempt from work participation. In order to meet this exemption, there must be no other satisfactory alternative plan or care available.

For these criteria, a disabled individual is defined as:

- A disabled child (age 18 or under) who lives in the household;
- A disabled parent who lives in the household; and
- Any other disabled adult household member

A recipient who is the primary caretaker for a disabled parent, child, or other adult household member is exempt until resources are available to enable the recipient to be away from the home without jeopardizing the safety or health of the disabled family or household member.

All other options for care must be exhausted before making the determination to exempt the recipient. Explore the availability of community resources that may provide appropriate day care or respite care services for the disabled child or adult. When appropriate, the participant may enlist other family members or friends as part-time or full-time care givers for the child or adult. Case managers should assist the family in the search for resources within the community to provide care for the disabled child or adult.

If no other caretaker resources exist, substantiate the need for the recipient to care for the disabled member of the household by obtaining a written statement or other documentation from a medical professional concerning the recipient-caretaker responsibilities.

### **Custodial Caretaker of a Child under Age 12 Months**

A recipient who is a single parent, custodial caretaker of a child under 12 months of age may choose to be exempt from work participation. The recipient may choose to be exempt from participation for all or any part of the twelve months in which the condition exists. The recipient has this option for exemption any time the condition exists. For example:

*A single parent becomes a recipient when her child is six months of age and she chooses to take the exemption. Five months later she gives birth to another child. She may choose to continue the exemption until the **second** child is 12 months old.*

During this period of exemption, the recipient's months of receipt of Temporary Assistance continue to count toward the 60-month lifetime limit. The case manager must make the recipient aware of this, and assist him/her to make an informed decision on whether or not to use the exemption.

A recipient *cannot* be mandatory during the time he/she is the custodial caretaker of a child under 12 months of age. If the single parent chooses not to take the exemption for all or any portion of the allowed time, he/she becomes a volunteer participant, rather than a mandatory participant. If the recipient chooses to volunteer rather than take the exemption, instruct the recipient to contact FSD immediately. FSD must make the necessary coding change to send the “volunteer” code to Toolbox. Follow up with FSD within 10 days, if the recipient’s status does not change to volunteer. This exemption is allowed for any child less than 12 months of age in the custodial care of the recipient. The child does not have to be a member of the cash assistance group.

This exemption is not allowed for recipients referred to CAP as a two-parent household. Obtain verification of the child’s age if in question.

### **Temporary Waiver Categories**

Only those recipients who fully meet the following temporary waiver categories and criteria are granted temporary waiver status. For most categories, appropriate documentation of the temporary waiver condition must be obtained and recorded in Toolbox before the temporary waiver status is granted.

The categories are titled here as they appear in Toolbox.

### **Pregnant in the Third Trimester**

A recipient in her third trimester of pregnancy (months 7, 8, and 9) may be temporarily waived from participation. The mother or unborn child does not need to be “at risk”; the mother may simply choose to take this waiver anytime beginning with the seventh month of her pregnancy.

If it is medically determined anytime during the pregnancy that the baby or mother is at-risk, use the waiver for temporary disability (below). For example:

*In the third month of her pregnancy, Jane’s physician has determined that her baby is at-risk because of medical complications. The physician prescribes bed rest in the first trimester and Jane is granted temporary waiver status for a temporary disability during her first trimester.*

Obtain a statement from a medical professional stating the expected due date, as verification for this category. *Do not enter the recipient in this waiver until the doctor’s statement is obtained.*

### **When a Temporarily Waived Pregnant Recipient Gives Birth**

When the recipient gives birth, she no longer meets the criteria for a “Pregnant in the Third Trimester” waiver, but by law, she is allowed a postpartum recovery period of 12 weeks, during which she is not required to participate in work activities. Use the “Temporarily Disabled” waiver category for this recovery period. If circumstances require more than 12 weeks of post-partum recovery, you may extend the temporary waiver with a doctor’s statement.

Use the following process to move a recipient from pre-delivery waiver status to the postpartum waiver and subsequent exempt status:

At the time the case manager verifies that the recipient has given birth:

- Close the temporary waiver “Pregnant in the Third Trimester” using the delivery date as the end date.
- Open the temporary waiver “Temporarily Disabled” using the delivery date as the begin date.
- Contact the recipient to arrange a time to discuss her options as it relates to the exemption for having a child less than 12 months of age. (This discussion may have already taken place between the recipient and the FSD or CAP case manager prior to the birth.)
- Record the date of birth for the child and the recipient’s decision regarding exemption.
- If the recipient has not already contacted FSD with her decision to take the exemption, send the alert “Custodial Caretaker of a Child Under 12 Months” to notify FSD. This alert is sent only when she chooses to take the exemption. If she does choose to take the exemption, FSD will code her as exempt and her record will become inactive in Toolbox.
- Cease all case management for the recipient. Her record will either become inactive in Toolbox or change to volunteer status, at which time CAP case management will resume. If inactivated, the reason for the inactivation is automatically recorded in Toolbox.
- If she chooses *not* to take the exemption, and has *not* contacted FSD, instruct the recipient to contact FSD immediately. FSD must make the necessary coding change to send the “volunteer” code to Toolbox. Follow up with FSD within 10 days, (by telephone or email) if the recipient’s status does not change to volunteer.
- If the recipient has notified FSD of her decision prior to contacting the CAP case manager, FSD will change her work status to exempt or volunteer and her work status will change to volunteer in Toolbox.

### **Temporarily Disabled**

If a temporary physical or mental condition prohibits a recipient from immediately engaging in a work-related activity, or participation is delayed to receive appropriate medical attention to eliminate or minimize the condition, the recipient may be appropriately placed in a waiver for temporary disability.

The disabling condition may be present at the time of impending referral from FSD; if so, referral is delayed until the condition is resolved. Or, the condition may appear after enrollment in CAP, at which point the case manager must determine the appropriateness of placing the recipient in a temporary waiver.

General guidelines for placing a recipient appropriately in a waiver for temporary disability are:

- The condition must prohibit *any* participation, not just participation in work, or any activity in which the recipient was enrolled at the onset;
- The condition will be at least 30 days in duration;
- The temporary disability must be due to a medical condition of the recipient; Temporary waivers are not granted to a recipient due to a medical condition of another household member, such as a child;
- The recipient must not be enrolled in the temporary waiver until the documentation is received and recorded in Toolbox;
- An expected duration must be entered in the Toolbox record, based on the medical documentation. If a duration cannot be obtained, the case manager should use best judgment; and
- A temporary waiver is never entered for longer than six months even if the medical documentation indicates a longer duration.

Adequate information to determine this waiver is based on the nature of the individual's condition and its severity. Typical methods of verification to establish the extent and length of the disability may include documentation from a physician, psychiatrist, psychologist, licensed clinical social worker, or hospital reports provided by the individual. The verification must be current and include the expected duration of the condition. *Do not place the recipient in the temporary waiver until documentation is received.*

If verification or confirmation of the recipient's condition is inconclusive, the case manager should discuss the case with a supervisor for alternative solutions. In some situations, an individual's condition may be documented as permanent. If this occurs, encourage the recipient to apply for a Social Security Administration/Supplemental Security Income determination of permanent disability. (See "Mentally and Physically Disabled" above).

### **Victims of Domestic Violence**

**Note:** At all times, and in all circumstances, every effort should be made to ensure the confidentiality of information for individuals who are victims of domestic violence.

Victims of domestic violence may be granted temporary waiver status if the recipient's current situation prohibits successful engagement in work or work activities, or if participation would place the recipient or his/her family in unsafe or unstable situations.

If a recipient requests this consideration, the case manager should immediately place the recipient in the waiver for domestic violence. The objective of this waiver is to allow appropriate time for the recipient to overcome the immediate crisis.

While the recipient is waived, the case manager should explore available resources for victims of domestic violence with the recipient, and refer if appropriate. Although these recipients require intensive case management, in no instance should the case manager attempt to counsel the recipient or influence the domestic situation in any way.

In many situations of domestic violence, documentary evidence does not exist. Do not press the recipient for verification of the violence if none is forthcoming. Allow the recipient to provide a written statement to support the domestic violence claim, if appropriate.

End the temporary waiver once the recipient attains a more stable condition and can return to participation.

### **Active With Children's Division**

Recipients may have family circumstances that prohibit participation due to an active case with the Department of Social Services, Children's Division.

Due to confidentiality issues, the case manager *cannot* ask the recipient directly if he/she has an active case with the Children's Division. The recipient may only communicate this information through self-disclosure.

If the recipient asks for consideration due to an active case with the Children's Division, contact the Children's Division to determine employment and training ready status. Based on information obtained from the Children Division, the recipient may be waived from participation.

A written statement from the Children's Division is acceptable documentation for this waiver category. If a written statement cannot be obtained, record an appropriate explanatory case note. In no instance should the case manager describe details of the family situation in the TIRE or in the paper file.

### **Lack of Transportation or Child Care**

FSD will refer recipients to CAP who are employment and training ready, but are unable to immediately participate in work or work activities due to the inability to find childcare or transportation.

Because these recipients are mandatory work participants, but have a temporary reason that they are unable to participate, they may be eligible for the temporary waiver status of "Unable to find child care or transportation" while attempting to locate appropriate childcare or transportation.

It becomes the recipient's full-time task, with the assistance of the case manager, to find childcare or transportation that will enable him/her to participate in the required work activities. The recipient's months of participation continue to count against the lifetime limit of Temporary Assistance receipt; therefore, it is important to obtain the necessary supportive service as quickly as possible.



A recipient meets the criteria for a waiver in this category when:

- The recipient has had a breakdown of current childcare or transportation that is of a permanent nature. (Daycare facility closes; current vehicle is damaged beyond repair, etc.); and
- The recipient has explored all possible resources in the immediate area, with no success.

Recipients do *not* meet the criteria for a waiver due to lack of transportation or childcare when:

- The absence of appropriate childcare or transportation is due to a short-term (two weeks or less) breakdown in current transportation or childcare; For example:  
*Jenny works part-time and takes her daughter to a neighbor who operates a licensed daycare in her home. The neighbor informs Jenny that she will be out of town for about 10 days, and Jenny will need to make other childcare arrangements for her daughter during that time. Jenny will be able to return her daughter to the neighbor's daycare when she returns.*
- The recipient has not exhausted all resources (with the assistance of the case manager) to find childcare or transportation alternatives;
- The recipient, with the assistance of the case manager, has not explored alternative work activities that would preclude the need for childcare or transportation; and
- These efforts by the recipient have been communicated to the case manager and documented in Toolbox.

Attached to this policy are guidelines for the case manager and recipient to assist in the exploration of available resources. (See attachments labeled “Childcare” and “Transportation”). Together, the case manager and the recipient should review and discuss the questions and responses as part of the effort to secure appropriate supportive services.

Before placing a recipient in a waiver for lack of transportation or childcare, the circumstances must be reviewed by a designated subcontractor supervisor for appropriateness. If the designated subcontractor supervisor approves the placement, record the approval as a case note in Toolbox and place the individual in the waiver for a maximum of 30 days. At the end of 30 days, re-evaluate the situation with the recipient, review the available options, and if the lack of supportive services still exists, obtain approval again from the designated subcontractor supervisor to extend the waiver for another 30 days. These waived recipients remain subject to the limited months of receipt of Temporary Assistance; therefore, it is important to resolve this barrier as soon as possible.

Continue to assist the recipient to locate childcare or obtain transportation while they are in the temporary waiver status. Record in Toolbox all applicable information related to the recipient's efforts to obtain the necessary childcare or transportation.

### **Procedure for Assigning Temporary Waiver Status**

When a recipient asks for consideration for any of the temporary waiver criteria, place the recipient in assessment while attempting to obtain documentation of the condition. When the documentation is received, place the recipient in the appropriate temporary waiver activity with a scheduled end date of up to six months. Generally, the documentation of the condition should include an expected duration that dictates the expected end date of the waiver, up to six months. If the documentation indicates duration longer than six months, use an expected end of six months, and extend if necessary.

At the scheduled end date of the waiver, close the waiver, open an assessment activity, review the circumstances for the waiver, and contact the recipient for new documentation of the current status of the condition. Keep the recipient in the assessment activity until new documentation is obtained. Include a face-to-face interview in this review process whenever possible. Continue to check the participant's status every 30 days and update the file regarding medical status.

Based on the new documentation, if the waiver is still appropriate, place the individual back in temporary waiver status for up to an additional six months. If the situation is improved and the waiver is no longer appropriate, review and update the IEP with the recipient, and assign an appropriate work activity.

Continue this assessment and extension process until the temporary waiver condition no longer exists. There is no restriction on the number of times a temporary waiver may be extended as long as the condition still exists, and supporting documentation is obtained and recorded in Toolbox.